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Downtown Memphis Payment-in-Lieu-of-Tax (PILOT) Program Packet

- Section I: PILOT Application Process**
- Section II: PILOT Program Policies and Procedures**
- Section III: PILOT Application**
- Section IV: Project Evaluation and Scoring Sheet**
- Section V: Equal Business Opportunity Program Forms**



C E N T E R C I T Y C O M M I S S I O N

Program Administered by:
Center City Revenue Finance Corporation
114 North Main Street
Memphis, TN 38103
901.575.0540
downtownmemphis.com

Revised on January 8, 2010



SECTION I

PILOT Program APPLICATION PROCESS

**Administered By:
Center City Revenue Finance Corporation**

Introduction

The PILOT (Payment in lieu of taxes) Program is a financial incentive that is designed to encourage commercial real estate development in and around the Memphis Central Business Improvement District by “freezing” property taxes at the predevelopment level for a predetermined period of time.

Program Boundaries

The PILOT Program is offered for redevelopment projects within the Memphis Central Business Improvement District (CBID) which is bounded by Crump Boulevard on the south, Danny Thomas Boulevard on the east, the Wolf River on the north and the Mississippi River on the west. The CBID extends through the Medical Center, which is bounded by Linden Avenue on the south, Watkins Street on the east, Poplar Avenue on the north and Danny Thomas Boulevard on the west.

Multi-Family residential projects that are outside of the CBID but within the boundaries of North Parkway, East Parkway, South Parkway and the Mississippi River will be considered if the project consists of at least 80 units.

Basic Eligibility Requirements

To be eligible for a PILOT, the value of the building renovations, site improvements or new construction must be equal to or greater than sixty percent (60%) of the total project cost.

Application Process

1. *Pre-Submittal Conference* – A meeting with a member of the Center City Commission Development staff must be held prior to submission of a PILOT application. This meeting is to acquaint all parties with the scope of the project and any related issues. This meeting also serves to familiarize the applicant with the overall submittal and review process as well as overall PILOT policies.
2. *Submittal of Application* – An outline of the PILOT application follows in this package. The official application must be assembled based on this outline. Thirty copies of the application must be submitted no later than two weeks prior to the regularly scheduled CCRFC Board of Directors meeting. The applications should be delivered to:

The Center City Commission
114 North Main Street
Memphis, TN 38103

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Incomplete applications will not be presented to the board for review. All incomplete applications will be subject to any new policies or procedures that are adopted by the Center City Revenue Finance Corporation Board of Directors.

3. *Board Review and Approval* - The CCRFC Board of Directors generally meets on the second Tuesday of every month at 9:00 am. Meetings are held at the Center City Commission offices at 114 North Main Street. The applicant's project will be publicly reviewed by the board based on Center City Commission staff evaluations. The project will be approved or denied at this meeting. In order for the application to be considered by the CCRFC board, the applicant, or his/her appointed representative, must be present at the meeting. An appropriate representative could be any of the project principles, professionals contracted on the project, or someone who the applicant has identified and given authorization to the CCC Development staff.
4. *Design Review Process* – All applicants pursuing incentives from this or any other Center City Commission affiliated board must have their projects reviewed by the CCC Design Review Board (DRB). This board reviews the project for architectural, historical and contextual compatibility to ensure that the agency's funds are being invested in a quality project that produces lasting benefits for the community.
5. *Closing* – If the project is approved by both CCRFC and the DRB, the board's legal counsel will arrange a PILOT closing meeting at which time title transfer will occur and the tax-freeze will be registered with the City of Memphis and Shelby County.

Applicant Fees

An application fee of \$1,000, payable to the Center City Revenue Finance Corporation, will be due upon submission of a complete application. The application fee will be deducted from the PILOT closing fee.

- For PILOTs exceeding ten (10) years, closing fees will be one and one-half percent (1.5%) of the total project costs.
- For PILOTs of ten (10) years or less, closing fees will be one percent (1%) of the total project costs.

Other Closing Requirements

The following must be provided at closing:

- Phase I Environmental Assessment
- Liability insurance on the property with \$3,000,000 in coverage. If the project is valued at less than \$1,000,000 then only \$1,000,000 in coverage is required.
- Equal Business Opportunity Form B: Business Utilization Plan.

Center City Commission Contact

Department of Development: (901) 575-0540



C E N T E R C I T Y C O M M I S S I O N

SECTION II

Downtown PILOT Program POLICIES AND PROCEDURES

**Administered By:
Center City Revenue Finance Corporation**

Purpose Statement

As provided by in the Tennessee Code Annotated, Chapter 7-53-102, the Memphis Center City Revenue Finance Corporation ("CCRFC") is authorized to finance, own, lease, and/or dispose of properties in order to maintain and increase employment opportunities, and to increase the quantity of housing available in affected municipalities by promoting industry, trade, commerce, tourism, recreation and housing construction, by inducing manufacturing, industrial, governmental, educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in this municipality.

General Policy and Procedures

- PILOTs granted through the CCRFC are not entitlements, but are reserved for projects that would not be financially feasible in the absence of the PILOT incentive. The CCRFC board will make the determination of a project's financial need.
- The maximum allowable term for a PILOT lease shall be fifteen (15) years.
- Payments in lieu of taxes, with respect to City of Memphis taxes, shall be based on predevelopment assessments for leases of fifteen years or less.
- For PILOT leases exceeding ten years in length: Payments in lieu of taxes, with respect to Shelby County taxes, shall be based on the predevelopment assessment, plus 25% of the increase in the assessment from the date of the PILOT lease.
- For PILOT leases of ten years or less: Payments in lieu of taxes, with respect to Shelby County taxes, shall be based on the predevelopment assessment for the first five years and on the predevelopment assessment plus 25% of the increase in the assessment from the date of the PILOT lease thereafter.
- Unless located in the Demonstration Block of Main Street, projects that have received or have applied for a Development Loan from the CCDC can only be awarded a PILOT tax freeze of ten (10) years or less.
- Projects located in the Demonstration Block of Main Street are eligible for PILOT tax freezes greater than ten (10) years despite having or applying for a CCDC Development Loan.

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- PILOT tax freezes will only be awarded to development projects within the existing boundaries of the CBID, with the exception of "High Impact Residential Projects" that occur within the boundaries of the Parkways, yet outside the CBID.
- The following projects are not eligible for consideration of a PILOT
 - Multi-family housing projects on Mud Island shall not be eligible for a PILOT.
 - No project on Mud Island south of Auction Avenue shall be considered for a PILOT without consideration of the Riverfront Development Corporation's recommendation.
 - Industrial projects, with the exception of medically or research related industrial projects within the Medical District, projects in the industrial area north of Chelsea, and projects within the South Downtown Business Park (as identified in the South Central Business Improvement District Zoning Map).
- Any development project that is under construction, excluding stabilization, site preparation or utility work, will not be eligible to apply for or to receive a PILOT tax freeze.
- To be eligible for a PILOT, the value of the proposed building renovations, site improvements or new construction must be equal to or greater than at least sixty percent (60%) of the total project cost (property & building acquisitions costs, financing expenses).
- A project must meet at least one primary qualification category in order to be eligible for any applicable secondary qualifications and/or additional term accumulation. Exceptions for projects that further the priorities of the CCRFC may be granted at the discretion of the CCRFC board.
- An applicant must own the property or have an option or other right to purchase the property in order to be eligible to apply for a PILOT tax freeze.
- Applications for a PILOT tax freeze must include a five (5) year project pro forma/financial analysis of the project's income and expenses.
- When calculating the PILOT closing fee, multi-family residential projects that are predominantly affordable income units may reduce their total project development costs by the amount of public grants involved in the project's financing.
- To be eligible for a PILOT, residential projects with 51 or more units must reserve at least 20% of the units for affordable housing ("affordable housing" defined as people moving into those units would earn 80% or less of the area's median income). This requirement is not applicable to residential projects with less than 51 units.
- Multi-family residential or housing facility is defined as two or more residential units located in a single building, on one parcel of land or on contiguous parcels of land.
- An applicant will have up to one (1) year from the time of approval by the CCRFC Board of Directors to close a PILOT lease. If the lease has not been closed within one (1) year, an applicant may request a one (1)-year extension (\$2500 fee). Projects are limited to one (1) extension, and the extension fee shall not be credited against the closing fee. If a PILOT does not close prior to the termination of the extension period, the project must be resubmitted, reviewed, and approved by the CCRFC. Resubmitted projects will be reviewed based on the then current CCRFC policies.
- If property subject to PILOT lease is vacant and unoccupied for a period of two (2) years, the PILOT lease will be terminated and the property may return to the tax rolls at the current tax assessment.

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- All PILOT leases will be closed in the name of the applicant or party designated in the application as the owner of the project. Prior approval of CCRFC Board of Directors will be required for substitution of another party as lessee under any PILOT lease upon closing thereof.
- No PILOT lease may be assigned prior to the completion of the project without the approval of the CCRFC Board of Directors.
- Upon completion of any project subject to a PILOT lease, the project shall be reviewed to determine if the project was completed as set forth in the application with respect to such project and plans and specifications approved by the DRB. If the project as completed would have received a PILOT lease of fewer years than granted to such project, based on the criteria in effect at the time of approval of such project, the term of the PILOT lease may be reduced appropriately.
- All projects that are awarded a PILOT shall use a "best faith effort" to reach a minimum of 20% W/MBE participation. If the requirements of the Equal Business Opportunity Program are not met, the Center City Revenue Finance Corporation reserves the right to rescind the PILOT.
 - Utilization: Developers are required to utilize minority-owned businesses that are certified in order to receive credit for the utilization of a minority-owned business. Developers must document all minority-owned businesses to be utilized, their percentage of utilization, and their intended scope of work. Such information should be submitted with the PILOT application on EBO Form A - Proposed Utilization Plan.
 - After a PILOT is approved, the developer shall be required to attend a conference with the CCC prior to beginning the work. The primary purpose of this conference is to finalize the minority-owned business participation as outlined in EBO Form B – Business Utilization Plan.
 - Post-Award Change: Any developer who determines that a minority-owned business identified on EBO Form B – Business Utilization Plan cannot perform shall request approval from the CCC to contract with an alternate by submitting EBO Form C – Explanation of Changes to Original Utilization Plan. Such request will be reviewed and approved only after adequate documentation for the proposed change is presented.
 - Monthly Certification: Each month the developer shall submit EBO Form D – Monthly Business Utilization Record of Payments Report, certifying all payments made to minority-owned businesses.
 - Unavailability: If a developer's efforts to obtain minority-owned business participation are unsuccessful due to the unavailability of the minority-owned business, the developer will submit a statement of unavailability on EBO Form E - Solicitation Certification Form.
 - Credit for Minority Participation in Joint Venture: A joint venture consisting of a minority owned entity and non-minority-owned entity will be credited with the minority-owned entity's participation on the basis of the percentage of the dollar amount of the work to be performed by the minority-owned entity.
 - The CCC will maintain a database of minority-owned businesses. The database will be made available to assist developers in identifying minority-owned businesses with capabilities relevant to contracting requirements, joint venture and partnering opportunities. If the developer utilizes a minority-owned business that is not listed on the CCC database, the developer is responsible for assuring the certification of the minority owned business.
- Consent to Assignment of Leasehold Interest Upon Foreclosure:
- **In the event a lender holding a deed of trust or mortgage on the leasehold interest of a PILOT lease shall foreclose thereon or accept an assignment or deed in lieu of foreclosure of the lessee's interest there under, such foreclosure or assignment or deed in lieu thereof shall not be considered an assignment of the PILOT lease by this**

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Corporation and shall not be subject to any consent or approval by this Corporation (to the extent required by the terms of the PILOT lease) nor shall any transfer fee be due and payable in connection therewith, so long as such lender holds the leasehold interest in the PILOT lease for resale and not for investment purposes. In the event a lender has succeeded to the rights of the lessee under the PILOT lease as a result of foreclosure or assignment or deed in lieu thereof, any subsequent assignment of the rights as lessee under the PILOT lease shall be subject to any required consent of this Corporation and the payment of any transfer fees due and payable in connection therewith. For the purposes of these policies, a lender shall be deemed to hold property for investment purposes and not for resale, and a transfer fee shall be due and payable, if it has held property for more than eighteen months.

- **Fee Schedule:**

The closing fee for a PILOT of ten (10) years or less shall be one percent (1%) of the project cost and the closing fee for a PILOT of more than ten (10) years shall be one and one-half (1½ %). The closing fee for any bond or note issue by this Board shall be one-half percent (½ %) of the face amount of the bonds or notes issued. If a PILOT lease requires approval by the Corporation of any sale, transfer or assignment, (as defined therein) of the lessee's interest in such PILOT lease, a fee equal to one percent (1%) of the project value shall be due in connection with such approval.

For the purpose of determining the closing fee in connection with a project, project costs shall be determined on the basis of the total budgeted cost for a project including, without limitation, all soft and hard costs. The proposed budget set forth in any application to the Board shall be deemed to be a certification by the applicant that the budget set forth therein is a reasonable estimate of all project costs. An updated budget may be requested on behalf of the Board at the time of closing of such PILOT.

Project value shall be determined on the basis of the total value given (including, without limitation, cash and assumption of debt) in the event of sale, transfer or assumption of all of the lessee's interest in a PILOT. If the sale, transfer or assumption is for less than all of the lessee's or borrower's interest, project value shall be determined on the basis of an appraisal of the project.

- The approval of a PILOT tax freeze is subject to the veto, in writing, by Mayor of the City of Memphis with respect to City of Memphis taxes and the Mayor of Shelby County with respect to Shelby County taxes within fourteen (14) days of the Board meeting where such PILOT is approved.
- Failure to pay any payments in lieu of taxes for property under a PILOT lease can result in termination of the lease. Written notification of any delinquent payments will be sent to the lessee and its lenders by certified mail. The lessee must pay the delinquent payments in lieu of taxes within 30 days of receipt of the notice (or such later date as is provided for the lessee's lender to cure). If the lessee or its lenders fail to pay the delinquent payments in lieu of taxes in the time period provided in the notice, CCRFC can terminate the lease or take any other action to enforce the lien for delinquent payments in lieu of taxes.